

BILL NO. S-77-06-07

SPECIAL ORDINANCE NO. S- 114-77

AN ORDINANCE approving an Agreement to Purchase by Mr. and Mrs. Leo J. Klier.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement to Purchase dated August 13, 1974, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works, and Leo and Nancy Klier for:

Real estate in Allen County, Indiana beginning at the NW corner of Lot No. 40 in Gardendale Addition to the City of Fort Wayne; thence W 54.8 feet to the East right-of-way line of Old Decatur Road; thence South along said right-of-way line 149.5 feet to the North right-of-way line of the Tillman Road; thence East along said right-of-way line to the West line of said Lot 40; thence Northwesterly along said West lot line to the place of beginning,

for a gain to the City of \$14,000.00, all as more particularly set forth in said contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof and is hereby in all things ratified, confirmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

William T. King
Councilman

APPROVED AS TO FORM
AND LEGALITY,

[Signature]
CITY ATTORNEY

Read the first time in full and on motion by Hunger, seconded by

Hunter, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 6-14-77

Charles W. Nuckols
CITY CLERK

Read the third time in full and on motion by Hunger, seconded by Talarico, and duly adopted, placed on its passage.

PASSED (~~EST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u>0</u>	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>HINGA</u>	<u>X</u>	_____	_____	_____	_____
<u>HUNTER</u>	<u>X</u>	_____	_____	_____	_____
<u>MOSES</u>	<u>X</u>	_____	_____	_____	_____
<u>NUCKOLS</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	<u>X</u>	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	<u>X</u>	_____	_____	_____	_____
<u>STIER</u>	<u>X</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>X</u>	_____	_____	_____	_____

DATE: 6-28-77

Charles W. Nuckols
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE

(RESOLUTION) No. 8-114-77 on the 28th day of June, 1977

ATTEST: (SEAL)

Charles W. Nuckols
CITY CLERK

John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of June, 1977 at the hour of 11:30 o'clock A M., E.S.T.

Charles W. Nuckols
CITY CLERK

Approved and signed by me this 30th day of June, 1977 at the hour of 10:30 o'clock _____ M., E.S.T.

Robert E. Armstrong
MAYOR

Bill No. S-77-06-07

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance
approving an Agreement to Purchase by Mr. and Mrs. Leo J. Klier.

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance Do PASS.

WILLIAM T. HINGA - CHAIRMAN

JAMES S. STIER - VICE CHAIRMAN

VIVIAN G. SCHMIDT

PAUL M. BURNS

FREDRICK HUNTER

William T. Hinga

James S. Stier

Vivian G. Schmidt

Paul M. Burns

Fredrick Hunter

CONCURRED IN

DATE 6-28-77

CHARLES W. WESTERMAN, CITY CLERK

DUNTEN, BECKMAN, LAWSON, FRUECHTENICHT & SNYDER

LAWYERS

FREDERICK A. BECKMAN
JACK W. LAWSON
THOMAS E. FRUECHTENICHT
STEPHEN R. SNYDER

2410 FORT WAYNE BANK BUILDING
FORT WAYNE, INDIANA 46802

LOUIE H. DUNTEN 1976
TELEPHONE
423-1602
AREA CODE 219

May 17, 1977

Mrs. Ursula Miller
Board of Works
City-County Building
Fort Wayne, Indiana 46802

Re: Decatur Road vacation

Dear Ursula:

Attached is the offer to the City by Mr. and Mrs. Klier to purchase the vacated portion of Decatur Road adjacent to Lot 40, Gardendale Addition, and copy of Tazian's survey. Also attached are copies of correspondence and attachments from the State Highway Commission to Larry Burke regarding abandonment of Decatur Road by the Commission.

As you know, the vacation ordinance (G-77-0407) is now finally moving. You will note that Mr. Klier's first effort regarding this matter dates back to August, 1973. The pace of events has accelerated noticeably, from 0 to normal. We hope it continues.

Very truly yours,

DUNTEN, BECKMAN, LAWSON,
FRUECHTENICHT & SNYDER



Frederick A. Beckman

FAB/gm
enc.

cc: Mr. and Mrs. Leo J. Klier
Mr. Larry J. Burke

STATE OF INDIANA



INDIANAPOLIS

INDIANA STATE HIGHWAY COMMISSION

100 North Senate Avenue
Indianapolis, Indiana 46204

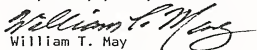
Room 1101, State Office Building
317-633-5816

Mr. Larry J. Burke
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, Indiana 46802

Dear Mr. Burke:

In Accordance with the request in your letter to Mr. Jack Smitherman dated February 11, 1977, I am attaching Certification covering copy of Resolution to abandon portion of S. R. 27 to the City of Fort Wayne, Allen County, along with Map and Letter of Notification on abandonment.

Very truly yours,


William T. May
Assistant Chief Engineer
Administration

WTM/dd
Attachments

STATE OF INDIANA



INDIANAPOLIS

INDIANA STATE HIGHWAY COMMISSION

100 North Senate Avenue
Indianapolis, Indiana 46204

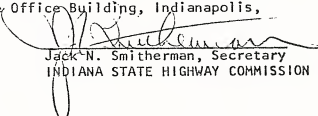
Room 1101, State Office Building
317-633-5816

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

OFFICES OF THE INDIANA STATE HIGHWAY COMMISSION

I, the undersigned, Jack N. Smitherman, Secretary of the Indiana State Highway Commission, hereby certify that the attached copy of a Resolution, which releases and abandons to the City of Ft. Wayne, S. R. 27 from Station 841+40 at a point approximately 2325 ft. SE of Anthony Blvd. (Also known as the Oetting Road) as measured along old US 27, said point being on the north right of way line S-29-D as shown on plans for said Project, to a point right of Station 968+35 on the south right of way line of Line S-34-D at its junction with the centerline of Avondale Drive, produced, said point being approximately 685 feet south of Pettit Avenue, Map and Letter of Notification, are true and accurate copies of the original.

I, further certify that the original of the aforementioned Resolution is on file in the Indiana State Highway Commission, Room 1101, State Office Building, Indianapolis, 46204.


Jack N. Smitherman, Secretary
INDIANA STATE HIGHWAY COMMISSION

Dated at Indianapolis, Indiana.

This 28th day of February, 1977.

R E S O L U T I O N

BE IT RESOLVED That the State of Indiana, by and through the State Highway Department, does hereby release and abandon all its rights, title and interest in and to the said portion of U.S. 27, Section M, as follows:

S.R. 27, Sec. M
Proj. U-575(12)

From: Station 841+40 at a point approx. 2325 ft.
SE of Anthony Blvd. (Also known as the
Oetting Road) as measured along old US 27,
said point being on the north right of way
line S-29-D as shown on plans for said Proj.

To: A point right of Station 968+35 on the south right
of way line of Line S-34-D at its junction with
the centerline of Avondale Drive, produced, said
point being approx. 685 feet south of Pettit Ave.

This portion of the road is now open to traffic and the abandoned
portion, a total distance of about 2.26 miles, is ready to be turned back to the
City of Fort Wayne and Allen County.

WITNESS OUR HANDS AND THE SEAL OF THE DEPARTMENT, THIS 20th DAY OF November
1956.

STATE HIGHWAY DEPARTMENT OF INDIANA

By

Virgil L. Smith
(Chairman)

W. H. Smith

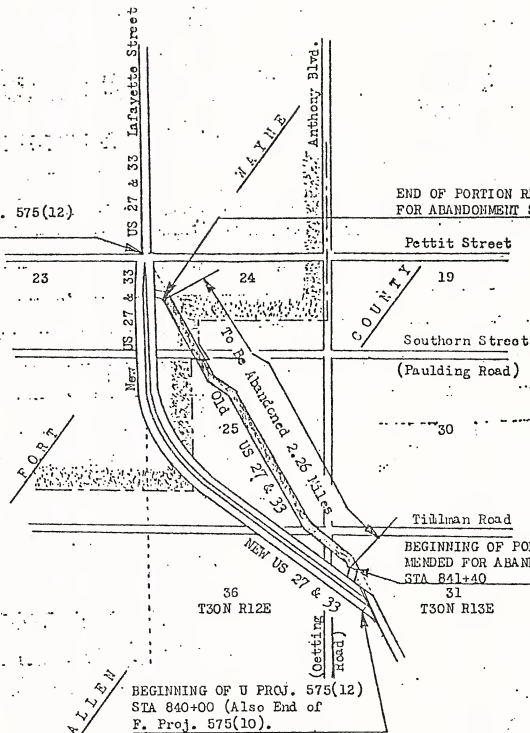
Dean E. Dacker

ATTEST:

Dean E. Dacker
(Secretary)

END OF U PROJ. 575(12)
STA 975+55.1

END OF PORTION RECOMMENDED
FOR ABANDONMENT STA 968+35



RECEIVED
OCT 31 1956
STATE HIGHWAY DEPARTMENT
OF INDIANA
CONSTRUCTION DIVISION

1" = 3000'

27-41)-54922

25

November 29, 1936

City of Fort Wayne
City Hall
Fort Wayne, Indiana

File: Road Abandonment
Section of S.W. 27,
Section 4 - Proj. U-575(12)
City of Fort Wayne

Gentlemen:

This is to inform you that the State Highway Department of Indiana has abandoned a portion of S.W. 27, Section 4, for a total distance of about 2.26 miles as follows:

S.W. 27, Section 4: From - Station 811+00 at a point approx. 2325 ft. N. of Anthony Blvd. (Also known as the Gitting Road) as measured along old R. 27, said point being on the north right of way line U-29-4 as shown on plans for said Project.

To - A point right of Station 908+35 on the south right of way line of Line S-34-R at its junction with the centerline of Avenue 1st, produced, said point being approx. 685 feet south of Pettit Ave.

In accordance with Section 27 of the Indiana State Highway Law, enacted Feb. 10, approved February 27, 1933, as amended under Chapter 238 approved March 1935, and Chapter 221, Sec. 1, page 968, Acts of 1919, that portion of S.W. 27, Section 4, for a total distance of 2.26 miles, is being abandoned as a State Highway and is to be returned to the City of Fort Wayne, Indiana.

Very truly yours,

WHL:bh
cc: Mr. C. E. Vogelzang
Mr. Lloyd Peckham
Mr. Wells
Mr. Egan
Mr. Franklin
Mr. J. E. Harkinsdorf, Dist. Engr.
Mr. C. J. McConotte, Sub-dist. Engr.
Mr. Taverbaugh
File

Virgil W. Smith
Chairman

AGREEMENT TO PURCHASE REAL ESTATE

City of Fort Wayne, Indiana

OWNERS

DATE:

8/13/1974

The undersigned (hereinafter called "Buyer") offers to purchase, upon the terms and conditions set forth below, the real estate in Allen County, Indiana, whose legal description is:
beginning at the NW corner of Lot No. 40 in Gardendale Addition to the City of
Fort Wayne; thence W 54.8 feet to the E right-of-way line of Old Decatur Road;
hence S along said right-of-way line 149.5 feet to the N right-of-way line of
the Tillman Road; thence E along said right-of-way line to the W line of said lot
40; thence N 101.2 feet to the W line of said lot 40; thence W lot line to the place of beginning.

TERMS AND CONDITIONS

The terms and conditions of this Agreement are as follows:

Purchase Price and Terms. The purchase price shall be \$14,000.00, to be paid in accordance with the terms of Paragraph A (insert A, B, C or D):

A. Cash. The entire Purchase price shall be paid in cash.

B. Cash With New Mortgage. The entire purchase price shall be paid in cash, subject, however, to Buyer's being able to obtain within _____ days from date hereof a _____ mortgage loan on the Real Estate for not less than \$_____. If Buyer is unable to obtain such financing within that time, this Agreement shall then terminate and any earnest money deposited hereunder shall be refunded to Buyer without delay. Buyer agrees to make immediate application for such financing. If the financing is subject to discount points Seller agrees to pay such discount points not to exceed \$_____.

C. Cash, Subject To Existing Mortgage. Buyer shall pay approximately \$_____ in cash and assume and agree to pay the unpaid balance of and to perform the provisions of, an existing mortgage on the Real Estate held by _____ as mortgagee. Seller represents that the unpaid principal balance of such mortgage is approximately \$_____ as of _____, 19____. Buyer shall begin to pay such unpaid balance by paying the payment due _____, 19____. Transfer fees, if any, required by the mortgage shall be paid by _____.

D. Land Contract. Buyer shall pay \$_____ in cash, upon the execution of a land contract acknowledging payment of that sum and calling for the payment of the remainder of the purchase price in monthly payments of not less than \$_____ per month, including _____ % interest, computed _____, plus taxes and insurance. The land contract is to be written upon the Allen County Indiana Bar Association form.

Earnest money paid under this Agreement shall be deducted from any payment required to be paid in at the closing.

Taxes and Assessments. Buyer shall assume and pay the taxes upon the Real Estate due and payable in (May) 1975 and all subsequent taxes. If the tax rate is not finalized, the last rate and value shall be used in this computation. Seller shall pay any assessments or charges upon or applying to the Real Estate for public or municipal improvements or services which on the date of this Agreement are constructed or installed on or about the Real Estate or are serving the Real Estate.

Possession. Possession of the Real Estate shall be delivered to Buyer on or before closing. Rents, if any, shall be prorated as of the date of closing. Insurance shall be (provided) (cancelled) as of the date of closing. Seller will pay all charges for utility services furnished the Real Estate until the date possession is delivered.

Improvements and Fixtures. This offer includes all improvements and permanent fixtures used in connection with the Real Estate, including but not necessarily limited to electrical, gas, heating and plumbing fixtures, screens, screen doors, storm windows, shades, venetian blinds, drapery hardware, awnings, etched cupping, linoleum, radio or television antennae, trees, shrubs, flowers, fences, and _____, if any, now in or on the Real Estate and the same shall be fully paid for and free of all liens and encumbrances at the time of closing, unless otherwise specified and agreed by Buyer.

Use. Buyer represents that his intended use of the Real Estate requires a zoning classification of B-1-B and on the date of closing the Real Estate shall be in a district permitting such use.

Earnest Money. As earnest money, Buyer deposits with the Seller's agent named below the sum of \$ none. Upon acceptance of this offer by Seller, Buyer will deposit with such agent additional earnest money in the sum of \$ none.

Acceptance. If this offer is accepted, it shall constitute an agreement between Buyer and Seller, binding and inuring to the benefit of them and their respective heirs and personal representatives. If, after acceptance, Buyer fails to complete the purchase as agreed, all earnest money shall be forfeited to Seller as liquidated damages and Seller shall have no other remedy at law or in equity.

If this offer is not accepted in writing on or before 30 days from date, 8/13, it shall then expire, and all earnest money shall be returned to Buyer without delay.

Other Terms

Seller shall remove all concrete from the vacated roadway which is now part of above described property.

Buyer will acquire at his expense

Abstract of Title. Prior to closing Buyer shall cause to be prepared an Abstract of Title for the Real Estate, continued to a date after the date of this Agreement, disclosing a marketable title in Seller. Buyer will have the abstract examined by his attorney and will submit a legal opinion thereon without unreasonable delay. Seller will have a reasonable time to meet such requirements, if any, as may be necessary to render marketable his title to the Real Estate according to the Standards of Marketability of Abstracts of Title as adopted by the Allen County Indiana Bar Association.

Closing. This transaction shall be closed as soon as title to the Real Estate meets necessary legal requirements and Buyer obtains the necessary financing, if any, as hereinabove provided. At closing, Buyer shall make payment of the purchase price as provided in Section 1 above, and Seller shall deliver to Buyer a properly prepared and executed General Warranty Deed or Land Contract, conveying or contracting to convey, the Real Estate and all improvements thereon in the same condition they now are, usual wear and tear excepted. The deed shall be accompanied by a Closing Affidavit. Seller shall assume the risk of loss or damage to the Real Estate and all improvements thereon until the delivery of the General Warranty Deed or Land Contract. In the event the Real Estate and all improvements thereon cannot be conveyed or contracted to be conveyed to Buyer in substantially their present condition, usual wear and tear excepted, this Agreement, at Buyer's election, shall not be binding upon Buyer, and earnest money deposited hereunder shall be returned to Buyer without delay.

Miscellaneous. Buyer has personally inspected and examined the Real Estate and makes this offer in good faith. All the terms and conditions are stated herein, there being no verbal agreements. Headings are inserted for convenience only and do not constitute a part of this Agreement. Whenever necessary and where the context admits, the singular terms "Buyer" and "Seller" and their related pronouns include the plural, the masculine, and the feminine.

PER:

BUYER:

c/o F.A. Beckman

2410 Fort Wayne Bank Bldg.

Fort Wayne, Indiana 46802

PHONE: 423-1602

ACCEPTANCE BY SELLER

The undersigned Seller accepts the above offer and agrees with its terms and conditions. Seller also agrees to pay its agent named below a commission of \$ none, which all be deducted from the first payment made to Seller. Seller also authorizes its agent to hold all money deposits in escrow until the closing of this transaction.

is acceptance is subject, nevertheless, to the conditions, if any, immediately following:

SUBJECT TO 14 FT. SEWER EASEMENT ALONG THE EAST RIGHT OF WAY LINE OF OLD DECATUR ROAD AND
SUBJECT TO APPROVAL BY ALL APPROPRIATE AUTHORITIES.

APPROVED AS TO FORM AND LEGALITY

DATE: 8-13-74 City of Fort Wayne, Indiana

CITY ATTORNEY

BY:

SELLER:

ADDRESS:

PHONE:

AGENT OF SELLER

I, agent for Seller, the undersigned agent acknowledges receipt of earnest money deposited with him in the following amounts and on the dates indicated:

Date

Amount

Agent

When earnest money is held in escrow and will be paid in accordance with the terms of the above agreement between Buyer and Seller.

Z. K. TAZIAN ASSOCIATES, Inc.

PROFESSIONAL ENGINEERS & LAND SURVEYORS

Zohrab K. Tazian, P.E. & L.S.
PresidentJerry K. Walker, P.E. & L.S.
Vice President

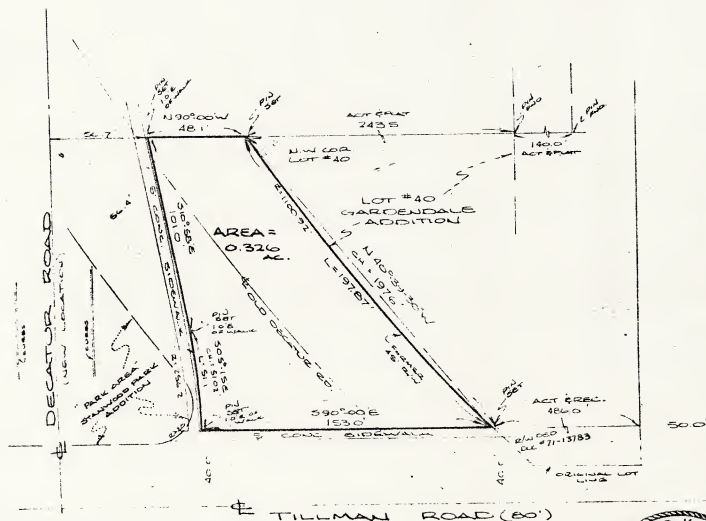
Certificate of Survey

This document is a record of a survey of land and real estate prepared in conformity with established rules of surveying and made in accordance with the records or plat on file in the Recorder's Office of Allen County, State of Indiana. The land described exists in full direct view as shown herein in fact. It is free from encroachments by adjoining land owners unless specifically shown herein. Corners were perpetuated as indicated.

DESCRIPTION OF REAL ESTATE

See Page 2 for Description.

This property is not in special flood hazard area as defined by the FIA Flood Hazard Boundary Map No. H-01-13, effective Jan. 30, 1976.



I hereby certify on the 16th day of July, 1976 that the above survey is correct.
 REVISED: 23 SEP 76 - PARK MAN ADDN

Surveyed for: Klier
 Survey No.: CF-100

Zohrab K. Tazian



Z. K. TAZIAN ASSOCIATES, Inc.

PROFESSIONAL ENGINEERS & LAND SURVEYORS

Zohrab K. Tazian, P.E. & L.S.
PresidentJerry K. Walker, P.E. & L.S.
Vice-President**Certificate of Survey**

This document is a record of a resurvey of land and real estate prepared in conformity with established rules of surveying and made in accordance with the records or plat on file in the Recorder's office of Allen County, State of Indiana. The land described exists in full dimensions as shown hereon in feet. It is free from encroachments by adjoining land owners unless specifically shown below. Corners were perpetuated as indicated.

DESCRIPTION OF REAL ESTATE

Part of the former right-of-way of Decatur Road (formerly U. S. #27) in the Southeast Quarter of Section 25, Township 30 North, Range 12 East, Allen County, Indiana, lying westerly of and adjacent to Lot #40 in Gardendale Addition to the City of Fort Wayne, and being more particularly described as follows, to wit:

Beginning at the Northwest corner of said Lot #40; thence N 90°-00' W (assumed bearing) on and along the westerly projection of the North line of said Lot #40, a distance of 48.1 feet to a point situated 1.0 feet East of an existing concrete sidewalk; thence S 49°-58' E, and parallel to said sidewalk, 101.0 feet to the point of curvature of a regular curve to the right having a radius of 256.2 feet; thence Southeasterly, on and along the arc of said curve and continuing 1.0 feet East of said sidewalk, 51.1 feet (the chord of which bears S 05°-15' E for a length of 51.02 feet) to the westerly projection of the North right-of-way line of Tillman Road as established by a dedication of right-of-way across said Lot #40 as recorded at Document #71-13783 in the Office of the Recorder of Allen County, Indiana; thence S 90°-00' E, on and along said westerly projection of said North right-of-way line, being a line situated 49.0 feet (measured at right angles) North of and parallel to the centerline of Tillman Road, 153.0 feet to the westerly line of said Lot #40; thence Northwesterly, on and along said westerly line, being also the easterly right-of-way line of Decatur Road as defined by a regular curve to the right, having a radius of 1100.92 feet, an arc distance of 197.87 feet (the chord of which bears N 40°-39'-30" W, for a length of 197.6 feet) to the point of beginning, containing 0.326 acres of land.



I hereby certify on the 16th day of July, 1966 that the above survey is correct.

Surveyed for: Klier
Survey No.: CF-100

Zohrab K. Tazian



City Clerk Memorandum

CHARLES W. WESTERMAN, Clerk

To Mayor Robert E. Armstrong Date 6-22-77
From Charles W. Westerman - City Clerk
Subject Appearance before Common Council - 6-28-77 - 7:00 P.M.

COPIES TO:

BILL NO. S-77-06-07

AN ORDINANCE approving an Agreement
to Purchase by Mr. and Mrs. Leo J.
Klier

Pursuant to the request of the Standing Committee Chairman of Finance of the Common Council, the presence of Henry P. Wehrenberg, Chairman of the Board of Public Works, is respectfully requested on June 28, 1977, at 7:00 P.M., Room 128, Common Council Conference Room.

Council would like more information regarding the Agreement to purchase real estate from Mr. and Mrs. Leo J. Klier.

Your cooperation will be greatly appreciated.

Carma Bunkle



TITLE OF ORDINANCE DECATUR ROAD VACATION AND AGREEMENT TO PURCHASE - KLIER

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

James
SYNOPSIS OF ORDINANCE DECATUR ROAD, ADJACENT TO LOT 40, GARDENDALE ADDITION

(SEE ATTACHED MAP FOR LOCATION) - - AND AGREEMENT TO PURCHASE SAID VACATION PORTION

BY MR. AND MRS. LEO J. KLEIR.

(SEE AGREEMENT TO PURCHASE REAL ESTATE ATTACHED HERETO)

EFFECT OF PASSAGE SALE OF VACATED PORTION OF DECATUR ROAD REAL ESTATE BY THE CITY

MR. AND MRS. LEO J. KLEIR.

EFFECT OF NON-PASSAGE INABILITY TO SELL VACATED AREA ON DECATUR ROAD.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) NO COST TO THE CITY, BUT AN

ADDITIONAL GAIN TO THE CITY OF \$14,000.

ASSIGNED TO COMMITTEE _____